

REMARKS

1. In response to the Office Action mailed May 12, 2006, Applicants respectfully request reconsideration. Claims 2, 4-6, and 8-31 were last presented for examination. In the outstanding Office Action claims 2, 4-6, 8-10, 13-18 and 20-29 were rejected. Claims 11, 12 and 19 were objected to. By the foregoing Amendments, claims 11, 12, 14, 16-19, 23, 25 and 28-30 have been amended, and no claims have been canceled or added. Thus, upon entry of this paper, claims 2, 4-6 and 8-31 will be pending in this application. Of these 28 claims, two (2) claims (claims 2 and 31) are independent.

2. Based on the above Amendments and following Remarks, Applicants respectfully request that the outstanding rejections be reconsidered, and that they be withdrawn.

Art of Record

3. Applicants acknowledge receipt of form PTO-892 listing additional references identified by the Examiner.

Allowable Subject Matter

4. Applicants note with appreciation the Examiner's indication that claim 31 is allowable. Applicants also note with appreciation the Examiner's indication that claims 11-12 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims.

Claim Amendments

5. Applicants have amended claims 11, 12, 14, 16-19, 23, 25 and 28-30. Applicants submit that the foregoing Amendments have not been made to overcome or accommodate any objection or rejection. Applicants further submit that no new matter has been added.

Claim Rejections Under 35 U.S.C. §102

6. The Examiner has rejected claims 2, 4-6, 8-10, 15-18 and 21 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,421,569 to Treaba *et al.*, (hereinafter, "Treaba").

7. Applicants thank the Examiner for indicating that Treaba is only a valid reference under 102(e), and that the rejection under §102(e) may be overcome by a showing under 37 CFR 1.132 that any invention disclosed, but not claimed in Treaba, was derived from the inventors of the present application.

8. Applicants have attached declarations under 37 C.F.R. 1.132 declaring that the invention of the use of two stiffening elements in an elongate member, as described in Treaba, was derived from the inventors of the present application, and is thus not the invention "by another." The attached declarations evidence that the inventors of the subject matter claimed in the present application, and disclosed but not claimed in Treaba, was invented by Fysh Dadd, Claudiu-Gheorghe Treaba, Derek Ian Darley, John L. Parker and Peter Gibson. In view of the attached declarations, Applicants assert that the rejections under 102(e) are improper and should be withdrawn.

9. Furthermore, Applicants respectfully disagree with the Examiner's assertion that Treaba teaches all elements of Applicants' claim 1. Submission of the above-noted declarations should not be construed as an admission by Applicants that the rejections based on Treaba are proper.

Claim Rejections Under 35 U.S.C. §103

10. The Examiner has rejected claims 13-14, 20 and 22-28 under 35 U.S.C. 103(a) as being unpatentable over Treaba in view of various combinations of U.S. Patent No. 5,653,742 to Parker, *et al.*, (hereinafter, "Parker") and U.S. Patent No. 5,119,044 to Kuzma, (hereinafter "Kuzma"). As noted above, Treaba is an improper reference in light of the attached declarations. Therefore, Applicants assert that the rejections of Applicants' claims under §103 as unpatentable over Treaba in view of various combinations of Parker and Kuzma are improper and should be withdrawn.

11. Furthermore, without addressing the lack of motivation to combine the cited references, Applicants assert that Treaba in view of the various combinations of Parker and Kuzma do not teach or suggest all elements of Applicant's claims 13-14, 20 and 22-28. Therefore, for at least this additional reason, Applicants assert that the rejections under §103 are improper and should be withdrawn.

Double Patenting

12. Claims 2, 4-6, 8-10, 13-18, 20-15 and 27-30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent Application No. 10/149,643.

13. The attached terminal disclaimer obviates these rejections.


Dependent Claims

14. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them a fortiori and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

15. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,



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